

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

DANIEL JOHNSTON,	:	Case No. 3:13-cv-46
	:	
Appellant,	:	Judge Timothy S. Black
	:	
vs.	:	
	:	
CITY OF MIDDLETOWN,	:	
	:	
Appellee.	:	

**ORDER OF DISMISSAL**

This case is before the Court on the Notice of Appeal from the Bankruptcy Court filed by Appellant Daniel Johnston and docketed in this Court on February 13, 2013. (Doc. 1). Pursuant to Fed. R. Bank. P. 8009(a)(1), Appellant was required to “serve and file a brief within 14 days after entry of the appeal on the docket pursuant to Rule 8007.” A Notice filed by the Clerk notified the parties that the Appellant’s brief was due on or before March 4, 2013. (Doc. 2). To date, Appellant has not filed a brief and the time for doing so has expired.

On April 22, 2013, the Court docketed an Order directing Appellant to show cause as to why this appeal should not be dismissed for failure to prosecute. (Doc. 3). Appellant has not responded to the Court’s Order to Show Cause and time for doing so has expired.

Having previously notified the parties that the Court proposes to dismiss this appeal as a result of Appellant’s failure to file a brief as required by Fed. R. Bank. P. 8009, and Appellant having failed to show cause for such failure, the Court **DISMISSES** this appeal for failure to prosecute pursuant to Fed. R. Bank. P. 8001(a).

**IT IS SO ORDERED.**

Date: May 9, 2013

s/ Timothy S. Black  
Timothy S. Black  
United States District Judge